



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit 1615

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In re

Patent Application of

Thomas H. Barrows

Application No. 09/890,888

Confirmation No.: 9201

Filed: August 7, 2001

Examiner: Ghali, Isis A. D.

“FILAMENTARY MEANS FOR
INTRODUCING AGENTS INTO CELLS”

I, Leslie Rector, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on the date of my signature.

Signature

Date of Signature

Leslie Rector

October 23, 2002

J. Tuck #5
11/5/02

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated 09/23/2002 Applicant respectfully submits the following response:

The Office Action stated that restriction to one of the following patently distinct groups is required under 35 U.S.C. §121/373: Group I (claims 1-22 drawn to filament comprising solid core and porous sheath and method of making); Group II (claims 23-33 directed at a device for implanting hair follicle cells into the skin of a living host, method of its production and method of its use); Group III, (claim 34, drawing to a method of making a filamentary device for permanent implantation in a living host); Group IV, (claim 35, drawing to method of facilitating the growth of a new bone); Group V, (claim 36, drawn to a method of continuous delivery of drugs to a living host).

In response to the above-noted restriction requirement, applicant hereby elects the claims of Group I, i.e., claims 1-22, with traverse.

The applicant hereby traverses the restriction requirement in its entirety. Restriction is only proper where "two or more independent and distinct inventions are claimed in one application." (35 U.S.C. §121). Applicant respectfully submits that the five groups of claims identified by the Examiner in the Office Action are not directed to "independent and distinct inventions," but to different embodiments of the same invention. The present invention comprises primarily methods and devices relating to implanting cells into the skin. Applicant submits that the claims of Groups I-V are therefore not directed to separate and distinct inventions, but to the same invention. Thus, restriction to any of the groups of claims is improper, under 35 U.S.C. §121.

Applicant submits, furthermore, that even if the claim groups were directed to independent or distinct inventions, rather than to embodiments of the same invention, restriction would not be appropriate in this case for the following reasons. The Manual of Patent Examining Procedure ("MPEP") states that:

"If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP §803.

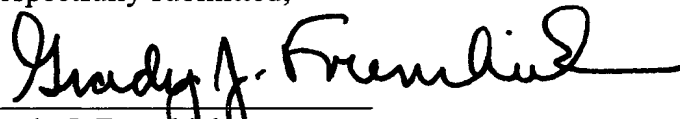
Applicant respectfully submits that all claims of the present application could be examined together without placing any serious burden on the United States Patent and Trademark Office (hereinafter "Patent Office"). The claims of Groups I-V are so inextricably related to one another that, for the sake of efficiency, they should be examined in a single application.

Given the close relationship between the claims of Groups I-V, prosecution in the same application would be administratively efficient for the Patent Office. Specifically, by prosecuting the applications together, searches could be consolidated, and one examiner could readily examine the subject matter of all the claims of this application at once.

Applicant submits that with the arguments presented herein, claims 1-36 are not directed to separate and distinct inventions, but to the same invention, and therefore restriction is improper.

Applicant respectfully submits that claims 1-36 are in condition for allowance.

Respectfully submitted,



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